

The Impact of Emoticons in the Workplace: Legal Challenges and Regulatory Change

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Abstract : The use of emoticons or so-called 'emojis' has gained much attention, not only in the daily use thereof with friends or family but also within the workplace amongst co-workers and employers. Even though emojis may be seen as a way to express feelings or even ideas, it may present legal challenges in the workplace. With new emojis being created on a daily basis, communicating through emojis, whether via phone, email or social media platforms, can become convoluted, especially within the working environment. The question to be addressed is how and/or whether Australian legislators will regulate the use of emojis (as a form of technology) in the workplace to prevent harassment, discrimination and other forms of prejudice. The emojis sent to co-workers may be interpreted by employees and even employers in different ways depending on their age, sexual orientation, and cultural background. Therefore, Australian courts will need to interpret an emoji's meaning on a case-by-case basis. This paper will explore the use of emojis in the workplace (drawing on a desktop study), the impact emojis have on the employer-employee relationship as well as co-worker relationships, its legal application through case studies and whether a legal framework should be adopted by Australian legislators on this issue. Furthermore, this paper will reflect on the legal framework and application of emojis in the workplace considering foreign jurisdictions such as the United Kingdom and the United States of America and whether Australia should adopt similar legal approaches to these jurisdictions.

Keywords : emoticons, legal approaches, regulation, workplace

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